

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DECISION AND ORDER
99-CR-131A

MOHAMMED ABUHAMRA,

Defendant.

Currently before the Court is the motion of defendant Mohammed Abuhamra for release pending appeal. The government opposes the motion. Oral argument on the motion was held on January 19, 2006.

After reviewing the submissions of the parties and hearing argument from counsel, the Court denies defendant's motion for release pending appeal.

Defendant's motion for release pending appeal is governed by 18 U.S.C.

§ 3143(b)(1), which provides in pertinent part:

[T]he judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds--

- (A) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released under section 3142(b) or (c) of this title; and
- (B) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in –
 - (i) reversal,

- (ii) an order for a new trial,
- (iii) a sentence that does not include a term of imprisonment, or
- (iv) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process.

Defendant has failed to raise a “substantial question of law” that will likely result in reversal, a new trial or a shorter sentence. Accordingly, his motion for release must be denied.

The Court hereby orders the defendant to surrender himself at the date, time and location designated by the United States Marshal’s Service or the Federal Bureau of Prisons.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: January 20, 2006